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UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF NEW YORK

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U.S. DISTRICT COURT E.D.N.Y.
★ MAY 17 2012 ★
BROOKLYN OFFICE

_____)	
MICHAEL DOMINIC,)	
)	
Plaintiff,)	
)	
)	
v.)	CIVIL ACTION
)	
)	FILE NO. 1:12-cv-01551-NGG-RML
JEAN-COSME DELALOYE,)	
)	
Defendant.)	
_____)	

**STIPULATION AND ORDER STAYING CERTAIN CLAIMS, PROVIDING A
SCHEDULE FOR SUMMARY JUDGMENT BRIEFING, PROTECTING THE
CONFIDENTIALITY OF CERTAIN MATERIALS TO BE PRODUCED IN
CONNECTION WITH THE SUMMARY JUDGMENT MOTION, AND PROVIDING
FOR FURTHER RESOLUTION AFTER A DETERMINATION ON THE SUMMARY
JUDGMENT MOTION**

Plaintiff Michael Dominic and Defendant Jean-Cosme Delaloye, having appeared through counsel before Magistrate Judge Robert M. Levy in a hearing held May 10, 2012 in which the terms of this Stipulation were discussed as a means to narrow the issues, reduce costs, and expedite the outcome of this litigation, do hereby STIPULATE as follows:

1. The following filing deadlines are set for Defendant's forthcoming motion for summary judgment on Plaintiff's claim for copyright infringement:

May 22, 2012 – Motion for Summary Judgment

June 12, 2012 – Opposition

June 20, 2012 – Reply

2. By May 15 , 2012, Defendant will produce to Plaintiff the copy of the motion exhibit that is the full-length “By My Side” film (English-language version) (the “Film”) that Defendant has previously submitted to film festivals for consideration. Pursuant to Federal Rule of Civil Procedure 26(c), and until the Film is publicly released, Defendant may designate the Film “CONFIDENTIAL” by affixing a legend or stamp on the production copy of the film as follows: “CONFIDENTIAL.” If the production copy of the Film is so designated, (i) Plaintiff may disclose and/or describe the non-public contents of the Film only to the following persons: Plaintiff, outside counsel of record for Plaintiff, the Court; (ii) Plaintiff may not make any copies of the Film, except for purposes of responding to Defendant’s motion for summary judgment; and (iii) the film will be stored at and viewed only in the offices of counsel of record for Plaintiff. Defendant may file the Film under seal with the Court in conjunction with its motion for summary judgment on Plaintiff’s claim for copyright infringement.

3. Plaintiff’s claim for breach of contract and Defendant’s counterclaim are stayed pending the Court’s determination of Defendant’s motion for summary judgment on Plaintiff’s claim for copyright infringement.

4. If the Court grants Defendant’s forthcoming motion for summary judgment on Plaintiff’s claim for copyright infringement, then the parties will: (i) dismiss all of their claims in this action with prejudice, and (ii) be subject to a mutual non-disparagement agreement that neither party will make any statement or take any action which is intended, or would reasonably be expected, directly or indirectly to injure the other party, his reputation or the market for his documentary that includes La Chureca, or which would otherwise reasonably be expected to lead to an unfavorable or harmful outcome to the other party. Further, if the Court grants Defendant’s forthcoming motion for summary judgment on Plaintiff’s claim for copyright infringement,

Defendant agrees not to pursue any claim for costs or attorneys' fees in connection with this litigation.

5. If the Court denies Defendant's forthcoming motion for summary judgment on Plaintiff's claim for copyright infringement, then the stay referred to in Paragraph 3 of this Stipulation will be lifted, and the terms of Paragraph 4 of this Stipulation and Order will not apply.

Submitted this 14th day of May, 2012.

s/ S. Calvin Walden
S. Calvin Walden
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ATTORNEYS FOR DEFENDANT
JEAN-COSME DELALOYE

SO ORDERED:

s/Nicholas G. Garaufis

5/14/12

USDJ